IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MRS. JUSTICE K.HEMA

FRIDAY, THE 9TH JUNE 2006 / 19TH JYAISHTA, 1928

LA.App..No. 1038 of 2000(D)

LAR.49/1997 of PRL.SUB COURT, KOZHIKODE

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APPELLANT:

STATE OF KERALA

BY GOVERNMENT PLEADER SRI.ALOCIOUS THOMAS

RESPONDENTS:

K.THILAKAM, KRISHNALAYAM
VENGERI VILLAGE, KOZHIKODE TALUK.

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 9/06/2006, THE COURT ON 09/06/2006 DELIVERED THE FOLLOWING:

ORDER CMP.NO.4734 OF 2000 IN LAA.1038 OF 2000:

DISMISSED.

Sd/-

9.6.2006 K.HEMA, JUDGE

/TRUE COPY/

PA TO JUDGE

K.HEMA, J.

L.A.A.NO. 1038 OF 2000

Dated this the 9th day of June, 2006

JUDGMENT

This appeal arises from an award passed in favour of the respondent-claimant against fixing of land value at Rs.15,000/- per cent. The respondent filed L.A.R.No.49 of 1997 claiming enhancement of compensation. The land which was acquired from him is having an extent of 0.0005 hectares. An award was passed for an amount of Rs.939/- as compensation to him. He raised objections and the case was referred under Section 18 of the Land Acquisition Act.

2. The Reference Court, after analysing the evidence on record, found that the land value can be fixed as Rs.15,000/- per cent. According to the learned Government Pleader, the land value fixed by the authorities is at Rs.4,607/-. The acquisition was in Vengeri Village and it was for the purpose of widening Vengerikkad-Kannadikkal road, pursuant to a notification dated 20.4.1993 issued under Section 4(1) of the Land Acquisition Act. Nine reference cases were jointly tried and disposed of by a common judgment. The evidence consist of oral testimony of Pws 1 to 3 and documentary evidence, Exhibits A1 and A2, on the side of the claimant. Exhibit C1 Commission Report was also marked.

3. The court below placed reliance upon Exhibits A1 and A2 to fix the land value as Rs.15,000/- per cent. According to the learned Government Pleader, the centage value fixed is not proper for the reason that both these documents have come into existence after the notification. The centage value covered by these documents is much less than Rs.15,000/- per cent. On going through the judgment under challenge, I find that the court below has given solid reason for relying upon Exhibits A1 and A2 to fix Rs.15,000/- as land value. The court below had taken into account Commission Report and the details reported by the Commissioner also for fixing the land value.

4. It is also to be noted that the respondents did not adduce any evidence and did not even produce the documents. In the above circumstances, I find no merit in the arguments. I do not find any reason to reverse the findings. It is seen from the judgment dated 29.10.2004 in L.A.A.No.1010 of 2000 that one of the cases, which was disposed of by a common judgment which is challenged in this appeal, a remand and fresh trial was ordered. But considering the extent of the land involved and the land value fixed in this case and also the fact that the respondent was declared ex parte, I do not find that a remand would be just and proper.

According to me, the interest of justice does not require the case to be remanded for fresh trial.

The Land Acquisition Appeal is dismissed.

K.HEMA, JUDGE

vgs.

K.HEMA, J.

L.A.A.NO.1038 OF 2000

JUDGMENT

9.6.2006